

A Resolution

NO. 3367-06-2006

RATIFYING EFFORTS OF THE CITIES AGGREGATION POWER PROJECT, INC. TO SECURE A LONG-TERM SOURCE OF ELECTRICITY FOR BASE-LOAD ELECTRICITY REQUIREMENTS

- WHEREAS**, the City is a member of the Cities Aggregation Power Project, Inc. ("CAPP"), a non-profit corporation that, if requested, purchases electricity in aggregate amounts for its members; and
- WHEREAS**, all retail power bids from various retail electric providers in the deregulated electric retail market have been directly indexed to natural gas futures prices; and
- WHEREAS**, CAPP's Board of Directors, CAPP's member cities and CAPP's consultants have invested significant time in investigating long-term electric power alternatives that are not indexed to natural gas prices in order to provide CAPP's member cities price savings and stability relative to traditional short-term energy contracts; and
- WHEREAS**, CAPP desires to enter into a capacity contract for a long-term supply of power to meet its member cities' base load electric needs for a fixed price that should provide considerable economic benefit and greater price stability in comparison to traditional energy contracts; and
- WHEREAS**, available capacity in Texas fueled by resources other than natural gas accessible to retail load is scarce and contracting for such capacity reflects an opportunity for CAPP's member cities to increase savings and reduce electric price volatility; and
- WHEREAS**, persons negotiating on behalf of the owners of available non-natural gas fired capacity require evidence of CAPP's interest and ability to contract for such capacity; and
- WHEREAS**, CAPP desires to fund the acquisition of capacity for its member cities through the issuance of contract revenue bonds that are secured by underlying contracts between CAPP and its participating member cities; and
- WHEREAS**, the Public Finance Division of the Office of the Attorney General of Texas has approved the proposed financing structure that CAPP intends to use to fund the acquisition of capacity for its member cities; and
- WHEREAS**, the debt issued by CAPP should be considered taxable unless the Internal Revenue Service responds to CAPP's pending Private Letter Ruling that the debt is tax exempt; and



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WHEREAS, CAPP's Board of Directors has voted to require that any proposed deal for capacity meet specific parameters in order to be considered by the CAPP membership, including: that the deal demonstrate economic benefit for all member cities as compared to exclusive reliance on energy priced on 100% natural gas generation coupled with a conservative forecast of natural gas prices and taxable debt; that the contract explicitly state that all liability is severable and associated solely with the defaulting city (if any) and that there is no cross-liability for other member cities; that CAPP's interest in the pre-paid capacity be secured by some tangible asset; that CAPP attempt to mitigate and underwrite identifiable risk through the contract negotiating process; and that capacity pre-payment, if required, will be secured by a general tax pledge of each member city, unless a member city is able to pre-pay its proportionate obligation with cash or separately arrange with CAPP's financial advisor to base its debt service obligations on annual appropriations; and

WHEREAS, adoption of this Resolution will not obligate the City of Fort Worth to participate in or otherwise purchase any capacity purchased by CAPP unless the City Council subsequently specifically authorizes such a transaction;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH,

I.

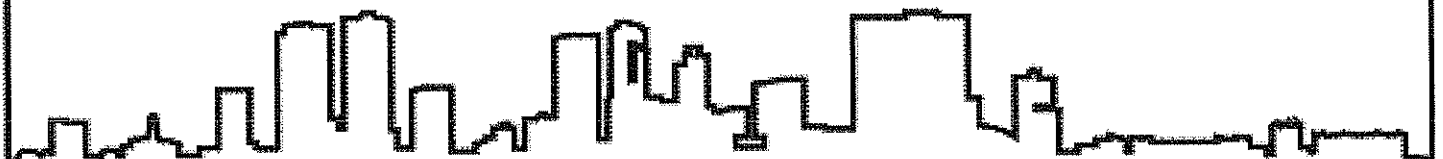
That the efforts of CAPP's Board of Directors to secure capacity generated by resources other than natural gas for its member cities' base load electric capacity needs for a fixed price for a period not to exceed twenty-five (25) years are hereby ratified.

II.

That the City of Fort Worth endorses CAPP's Board of Directors' committing to contract for non-natural gas-fired capacity, with the understanding that any such deal will meet all specific parameters, as set forth in the recitals of this Resolution, and that the City will have an opportunity to review and approve or reject any contractual agreement negotiated by CAPP for the purchase of long-term electric power.

III.

That any underlying contractual agreements between CAPP and participating member cities will include two components: (i) a variable expense portion associated with that city's share of electric energy received, including a fuel cost, that is to be paid as a budgeted expense, subject to annual appropriation by the city, and (ii) a fixed capacity expense that will be paid by the city through its monthly electric bills but which shall constitute a long-term, general obligation tax debt, with an



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exception permitted that allows the city to use cash to fund its capacity pre-payment obligation or arrange with CAPP's financial advisor to base its capacity pre-payment pledge on annual appropriations, if so able and that any incremental costs associated with such optional arrangements will be borne solely by the city in question.

IV.

That this Resolution does not obligate the City of Fort Worth to participate in or otherwise purchase any capacity purchased by CAPP unless the City Council subsequently specifically authorizes such a transaction.

Adopted this 20th day of June, 2006.

Attest:

By: Marty Hendrix
Marty Hendrix
City Secretary

APPROVED
CITY COUNCIL

JUN 20 2006

Marty Hendrix
City Secretary of the
City of Fort Worth, Texas



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City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 6/20/2006 - Resolution No. 3367-06-2006

DATE: Tuesday, June 20, 2006

LOG NAME: 03CAPP

REFERENCE NO.: **G-15237

SUBJECT:

Approve Resolution Ratifying Efforts of the Cities Aggregation Power Project, Inc., to Secure a Long-Term Source of Electricity for Base-Load Electricity Requirements

RECOMMENDATION:

It is recommended that the City Council approve the attached Resolution which:

1. Supports Cities Aggregation Power Project, Inc.'s (CAPP) efforts to identify and contract for long term capacity generated by resources other than natural gas for the City's base load electric capacity needs for a fixed price for a period not to exceed twenty-five years;
2. Consents to the proposed financing structure for the long-term capacity contract that has been approved by the Public Finance Division of the Texas Attorney General's Office; and
3. Endorses the CAPP Board of Directors committing to contract for non-natural gas-fired capacity with the understanding that any such deal will meet all specific parameters set forth in the attached Resolution.

DISCUSSION:

One characteristic of the Texas deregulated electricity market is that retail prices for electricity are linked to the natural gas market. There have been dramatic increases in prices for electricity as the gas prices have gone up. Recently prices have been as much as 275% higher than they were when deregulation of the electricity market started.

The City entered into its current contract for electricity with The Texas General Land Office (GLO) last year. This contract insulates 85% of the City's electricity requirements from the recent price increases through June 2009. However, when the contract expires, the City's electricity expenditures are expected to increase 100 - 150%.

Cities Aggregation Power Project, Inc. (CAPP) is a political subdivision corporation authorized by the Texas Local Government Code which was formed to contract for power on behalf of its member political subdivisions. Although the City of Fort Worth has never purchased electricity through CAPP, on June 26, 2001 the City Council approved Resolution No. 2740 accepting membership in the organization.

As CAPP gained experience in the deregulated electric market, its mission evolved beyond just securing favorable energy pricing on an annual basis. CAPP's members must prepare annual budgets, and they need predictable costs for essential services such as electricity. CAPP has started taking proactive steps to stabilize prices for its members.

Over the last two years, the CAPP Board of Directors has looked for long-term options that would mitigate the volatility of natural gas-fired generation. CAPP's consultants have identified owners of generation facilities that are willing to negotiate directly with CAPP for long-term generation capacity at very favorable

rates. The general structure of such a deal would fix the price for approximately one-half of the total aggregated energy requirement for a term of up to 25 years. The remainder of the electricity would be supplied with short-term contracts.

A long-term contract would involve a commitment for the output of a base load (probably coal-fired) generation facility and pre-payment of the capacity costs associated with that facility. Experienced bond counsel advised CAPP regarding an appropriate financial structure that would permit payment of the capacity portion of a potential energy contract. The Chief of the Public Finance Division of the Office of the Attorney General approved CAPP's proposed structure last summer.

This Resolution endorses the arrangement approved by the Attorney General's Office, which would have CAPP issuing general revenue bonds with the bond proceeds used to pre-pay the 10-year capacity commitment on behalf of members. The bonds would be backed by contracts between CAPP and individual CAPP member cities that would commit to purchase their electric needs from CAPP for the duration of the capacity commitment. The individual contracts would be comprised of two components: 1) a variable expense portion associated with each member's share of the electric energy received, including a fuel cost, and 2) a fixed capacity expense that equals the annual principal payments corresponding to the percentage of the capital cost of the electric generation facility for which the member is responsible. The variable energy expense portion would be paid by each member as a budgeted expense subject to annual appropriation. The fixed capacity component would constitute long-term, general obligation tax debt of each respective member. This means that the fixed capacity portion of the contract would be secured by a pledge of the member's ad valorem taxes. The CAPP Board of Directors has approved an exception to the financial structure for members that wish to avoid undertaking a general obligation tax debt and are financially able. The exception allows members to either bring sufficient revenues to pre-pay the capacity portion associated with the member's particular requirements or to arrange with CAPP's financial advisor to base their capacity pre-payment pledge on annual appropriations.

The Resolution also directs CAPP to consider only long-term capacity contracts that meet certain defined parameters meant to protect CAPP members. These parameters are:

- A statement that the debt would be taxable and that CAPP must demonstrate that the proposed deal would provide member cities with an economic benefit. There is a pending Private Letter Ruling Request filed by CAPP seeking an opinion that the debt would be tax-exempt. If the IRS responds that the debt is tax-exempt, then it will be that much easier to demonstrate economic benefit.
- Severable liability associating the risk with the defaulting city and no cross-liability.
- Securitization of CAPP's interest in the capacity (that has been pre-paid) by some tangible asset, and that CAPP shall attempt to mitigate and underwrite identifiable risk through the contracting process.

To secure the most favorable terms, CAPP needs to increase the size of its aggregated load. They have invited the City of Fort Worth to join this venture. If CAPP is successful in obtaining a favorable contract, city facilities on the current contract will not be transferred until after June 2009. The most likely start date will be in 2010.

Persons negotiating on behalf of the owners of the generation facilities require evidence of CAPP's ability to contract for the generation capacity. Therefore, the CAPP Board has requested that all cities interested in participating adopt resolutions endorsing the concept. Adoption of the resolution does not contractually obligate the City to purchase electricity through any contract negotiated by CAPP. The City will have the opportunity to review and approve a contractual agreement once a contract is negotiated.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers**FROM Fund/Account/Centers**

Submitted for City Manager's Office by:

Richard Zavala (Acting) (6222)

Originating Department Head:

Bridgette Garrett (8518)

Additional Information Contact:Danny Reed (6145)
